

REMARKS / ARGUMENTS

In response to the office action of June 27, 2008, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims based on the following remarks and arguments.

Claims 11-22 have been rejected under 35 U.S.C. §102(b) as allegedly anticipated by Lacy et al. (U.S. 5,645,856). Lacy issued on July 8, 1997, and as indicated on the cover of the '856 patent, published as PCT Pub. No. WO95/24893 on September 21, 1995.

35 U.S.C. §363 provides:

An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title.

Since the present application eventuates from international application PCT/EP94/02248 filed on July 8, 1994, which designated the U.S., the present application has an effective filing date in the US of July 8, 1994. See copy of oath filed in the present application and cover of the present application as published, US 2004/0019074 A1.

35 U.S.C §102(b) provides:

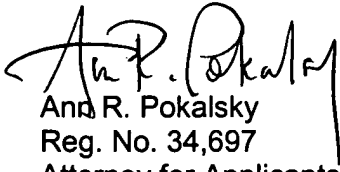
A person shall be entitled to a patent unless...

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country more than one year prior to the date of the application for patent in the United States.

It is respectfully submitted that the publication date of Lacy et al., September 21, 1995, is not more than one year prior to the effective filing date in the U.S. of the present application under 35 U.S.C. §§102(b) and 363. The rejection of claims 11-22 under 35 U.S.C. §102(b) as allegedly anticipated by Lacey et al., is therefore in error and should be withdrawn.

In view of the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,


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